

Attorney Docket No. LWEP:125US  
U.S. Patent Application No. 10/711,188  
Reply to Office Action of April 26, 2006  
Date: August 25, 2006

### **Remarks/Arguments**

#### **Amendments to the Claims**

Claim 1 is presently amended to include, “a microscope stand comprising a sidewall that is defined by the microscope and includes an elongated opening” as described in paragraph [0029] of the specification, and shown in Figures 2, 3, 4, 7 and 8. Claim 1 is also presently amended to include, “by means of the elongated opening” as described in paragraphs [0029], [0038], and [0039], and shown in Figures 7 and 8. New claims 20-27 have been added to include allowable subject matter pursuant to the Examiner’s instructions on page 5 of the Official Action.

#### **Claims 1-4 and 16-19**

The Examiner rejected Claims 1-4 and 16-19 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,482,221 (Clark). Applicants respectfully traverse the rejection.

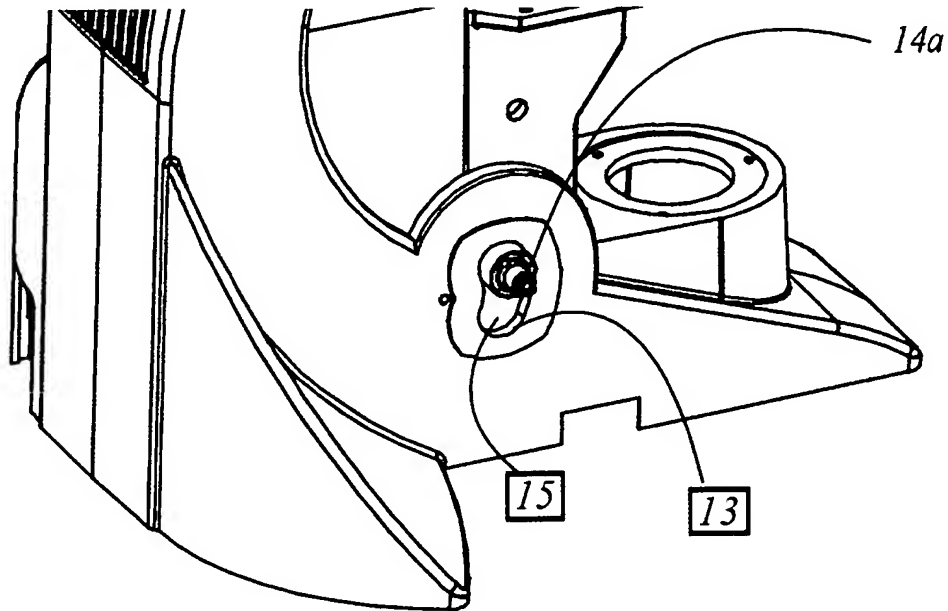
“A claim is anticipated only if each and every element as set forth in the claims is found, either expressly or inherently described in a single prior art reference.” *Vandergaal Bros. v. Union Oil of California*, 814 F.2d 628, 631; 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). MPEP §2131. (Emphasis added).

**Clark does not teach or disclose every element of Claim 1.** Claim 1 recites a microscope stand comprising a sidewall that includes an elongated opening, and the spatial arrangement of the at least one operating element on the side wall that is adjustable by means of the elongated opening. Clark does not teach a sidewall that includes an elongated opening or the spatial arrangement of an operating element that is adjustable by means of an elongated opening. Therefore, Clark does not anticipate Claim 1.

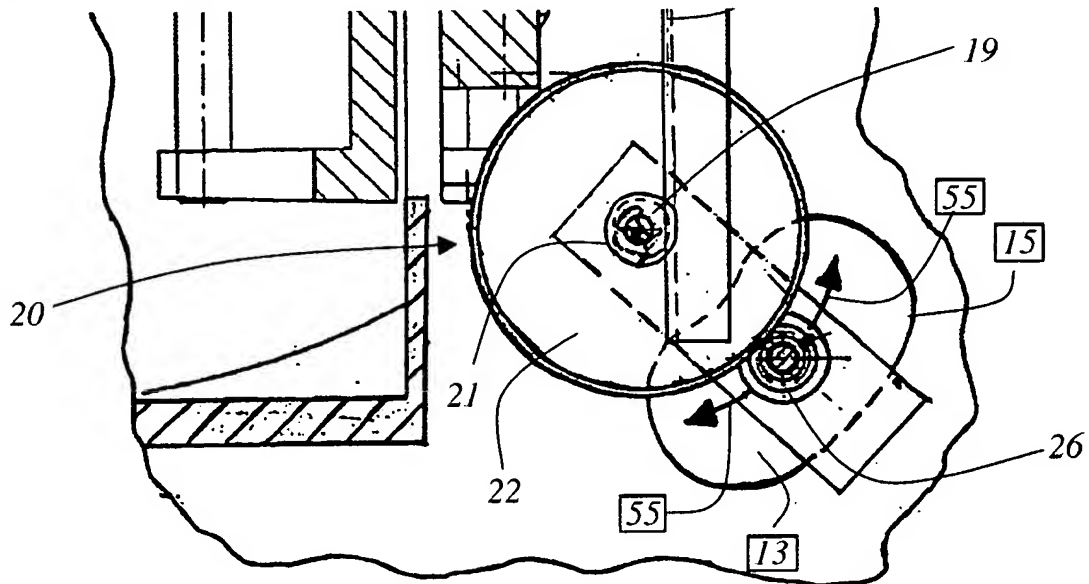
Applicants direct the Examiner’s attention to:

Attorney Docket No. LWEP:125US  
U.S. Patent Application No. 10/711,188  
Reply to Office Action of April 26, 2006  
Date: August 25, 2006

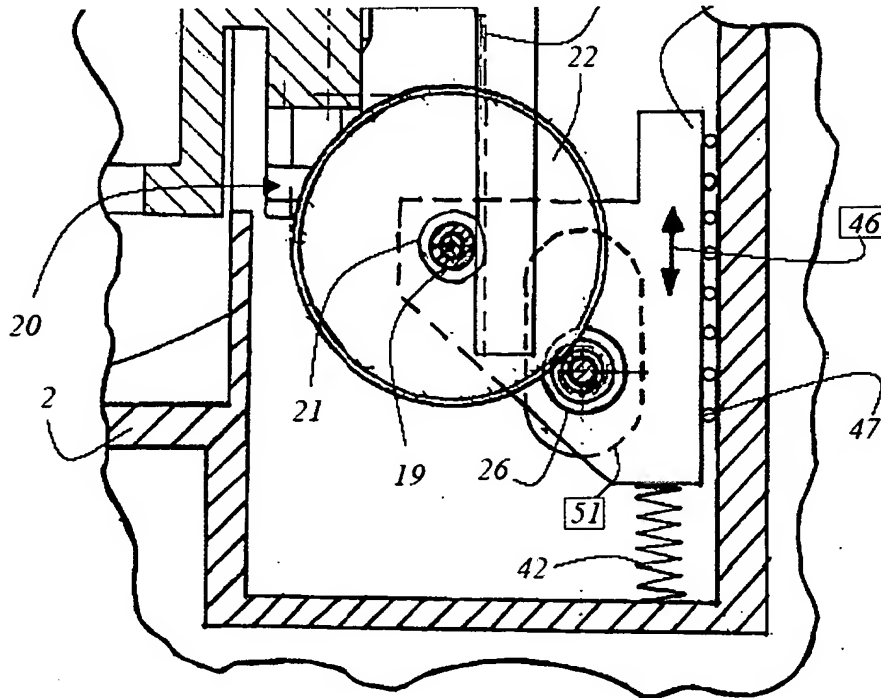
opening 15 in the shape of curved elongated hole 13 in Figure 2 of the present patent application:



opening 15 in the shape of curved elongated hole 13 in Figure 8 of the present patent application;

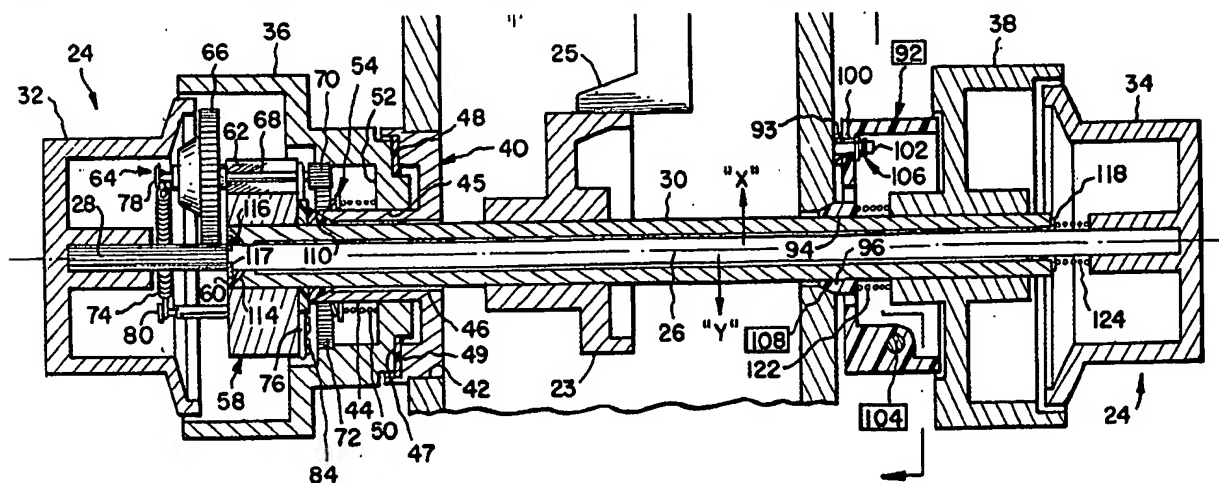


and longitudinal opening 51 in Figure 7 of the present patent application.



Double arrow 55 in Figure 8 and 46 in Figure 7 indicate the directions in which the spatial arrangement of the operating element may be adjusted by means of the elongated opening.

Clark does not teach or suggest an elongated opening. Instead, Clark teaches conical bore 108 of support column 14 shown in Figure 2 of the Clark patent:



Attorney Docket No. LWEP:125US  
U.S. Patent Application No. 10/711,188  
Reply to Office Action of April 26, 2006  
Date: August 25, 2006

Furthermore, the spatial arrangement of the operating element (lever 104) in Clark is adjustable by means of rotatable hub 92 to which it is affixed, and not by means of an elongated opening. (*see also*, Clark, Figure 4 and Column 5, lines 2-11).

**Claim 1 is not anticipated by Clark.** Claims 2-4 and 16-19, which are dependent upon Claim 1, enjoy the same distinction. Claims 1-4 and 16-19 are allowable, which action is courteously requested.

### **Claims 13-15**

The Examiner rejected Claims 13-15 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,482,221 (Clark) in view of German Patent No. 3607379 (Franz). Applicants respectfully traverse the rejection.

To establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations of the rejected claims. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (Emphasis added).

**The prior art references do not teach or suggest all the limitations of Claims 13-15.** Claims 13-15 depend from Claim 1. We construe the Examiner's explanation on page 4 of the Official Action to indicate that Clark teaches the invention of Claim 1, and Franz teaches the additional elements of Claims 13-15. As explained above, Clark fails to teach all the limitations of Claim 1. Thus, it would be improper to maintain the rejection of Claims 13-15 over Clark in view of Franz. Reconsideration of the rejection of Claims 13-15 is courteously requested.

### **Claims 5-12**

The Examiner objected to Claims 5-12 as being dependent upon a rejected base claim (Claim 1), but indicated they would be allowable if they were rewritten in independent form to include all the limitations of the base claim and any intervening claims.

Applicants have entered new Claims 20-27 which correspond to the rewritten Claims 5-12. These new claims are allowable, which action is courteously requested. In addition, since

Attorney Docket No. LWEP:125US  
U.S. Patent Application No. 10/711,188  
Reply to Office Action of April 26, 2006  
Date: August 25, 2006

Claim 1 is allowable, as explained above, Applicants respectfully traverse the rejection of Claims 5-12.

**Conclusion**

Applicant respectfully submits that the present application is now in condition for allowance, which action is courteously requested. The Examiner is invited and encouraged to contact the undersigned attorney of record if such contact will facilitate an efficient examination and allowance of the application.

Respectfully submitted,



Andrew E. McLaughlin  
Agent for Applicants  
Registration No. 58,271  
Simpson & Simpson, PLLC  
5555 Main Street  
Williamsville, NY 14221-5406  
Telephone No. 716-626-1564

Dated: August 25, 2006

AEM